

United States District Court
 Western District of New York
 Byron Santos # 17F4113C

Plaintiff,

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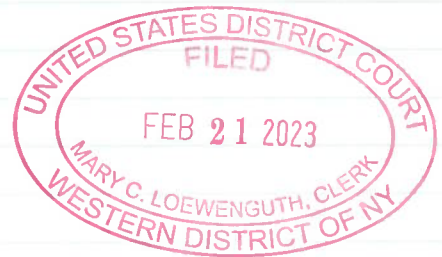
Officer Jones, Sergeant D. Filighera,
 Sergeant Hessel, Officers John Doe # 1-25,
 Nurse Solomon, Collins Corr. Fac.
 Superintendent Latorna, Collins Corr. Fac.
 First Deputy Superintendent K. Kelly,
 Lieutenant John Doe, CRC Parker,
 CRC Smith, CRC Fisher, CRC Supervisor
 Nue, Collins Corr. Fac. (Plea Deputy) Adams,
 Collins Corr. Fac. Grievance Officer Becker,
 Sued individual and in their Official
 Capacities,

Defendants.

Case Number:
 22-CV-6338

Hon. Elizabeth A.
 Whitford

Amended Complaint
 With Jury Demand



Introduction:

This is a civil rights action filed by Byron Santos, a state incarcerated individual, for damages and injunctive relief under 42 U.S.C. § 1983, alleging excessive use of force, rapes, gang assaults, failure to do their jobs, and denial of medical care in violation of the Eighth Amendment to the United States Constitution and in violation of the Due Process Clause of the Fourteenth Amendment to the Constitution. The plaintiff also alleges the torts of assault and battery and negligence.

Jurisdiction:

- 1) The Court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §§ 1331(1) and 1343.
- 2) The Court has supplemental jurisdiction over the plaintiff's state law tort claims under 28 U.S.C. § 1367.

Parties:

- 3) The Plaintiff, Byron Santos, was incarcerated at Collins Correctional Facility during the events described in this Complaint.
- 4) Defendant Officer Jones is a Correction Officer employed at Collins Correctional Facility. He is sued individual and in his Official Capacities.
- 5) Defendant Sergeant D. Filighera is a Sergeant employed at Collins Correctional Facility. He is sued individual and in his Official Capacities.
- 6) Defendant Sergeant Hessel is a Sergeant employed at Collins Correctional Facility. He is sued individual and in his Official Capacities.
- 7) Defendants Officers John Doe #1-25 are Correction Officers employed at Collins Correctional Facility whose names is presently unknown to plaintiff. They are sued individual and in their Official Capacities.
- 8) Defendant Nurse Solomon is a Medical Staff employed at Collins Correctional Facility and is generally responsible for ensuring provision of Medical Care to incarcerated individuals when an incarcerated individual needs specialized treatment or evaluation. She is sued in her individual and her Official Capacities.
- 9) Defendant Collins Corr. Fac. Superintendent Latona is Collins Correctional Facility Superintendent and is in charge of the supervision and discipline of all Correctional Staff at Collins Correctional Facility. She is sued individual and in her Official Capacities.
- 10) Defendant Collins Corr. Fac. First Deputy Superintendent K. Kelly is Collins Correctional Facility First Deputy Superintendent and is also in charge of the supervision and discipline of all Correction Officers and Staff at Collins Correctional Facility. She is sued individual and in her Official Capacities.

- 11) Defendant Lieutenant John Doe is a Lieutenant employed at Collins Correctional Facility. He is Sued individual and in his Official Capacities.
- 12) Defendant CRC Parker is a Counselor employed at Collins Correctional Facility. She is Sued individual and in her Official Capacities.
- 13) Defendant CRC Smith is a Counselor employed at Collins Correctional Facility. She is Sued individual and in her Official Capacities.
- 14) Defendant CRC Fisher is a Counselor employed at Collins Correctional Facility. She is Sued individual and in her Official Capacities.
- 15) Defendant CRC Supervisor Nue is the head Counselor at Collins Correctional Facility. He is Sued individual and in his Official Capacities.
- 16) Defendant Collins Corr. Fac. (PFA Deputy) Adams is the (PFA Deputy), at Collins Correctional Facility. She is Sued individual and in her Official Capacities.
- 17) Defendant Collins Corr. Fac. Grievance Officer Becker is the Grievance Supervisor at Collins Correctional Facility. He is Sued individual and in his Official Capacities.
- 18) All the defendants have acted, and continue to act the whole time Plaintiff placement there, Under Color of State Law at all times relevant to this Complaint.

Misuse of Force: Facts: Denial of Medical Care:

- 19) On Or about April 2019, I was at Collins Correctional Facility 200 Block (I do not remember the exact cell), and was sexually harassed multiple time by Defendant Officer Jones which is why I filed multiple Complaints / Grievances. Specifically because Defendant Officer Jones grabbed his Dick threw his clothes and also made kissing faces at me plus denied me Food up.

- 20) Days or weeks after the incident Defendant Officer Jones saw me inside a bull pin or hearing room in the 2nd floor and proceeded to walk towards the Bull pin or hearing room with a pornographic magazine stating "this is how I am going to have you", showing me one of the scenes. It was the 2nd (PRA) Complaint / Grievance I filed on Defendant Officer Jones.
- 21) Days or weeks after Defendant Officer Jones committed the 2nd offense he came to my cell door (again not sure of exact cell without proper documentation), with headphone extension bribing me for sexual intercourse. I filed a Complaint for this 3rd incident as well.
- 22) In April 2019 Defendant Sergeant Hessel was just "Correction Officer" Hessel. Defendant Sergeant Hessel in April 2019 started retaliating by writing me fake misbehavior reports to show that the (PRA) Complaints / Grievances I filed on his co-worker / friend Defendant Officer Jones don't mean anything. I then filed a Complaint / Grievance for retaliation on Defendant Sergeant Hessel when Defendant was a Correction Officer and Defendant Officer Jones.
- 23) Soon after the 4th Complaint / Grievance Defendant Officer Jones was notified and the Defendant appeared in front of my cell door (again I do not remember the exact cell without proper documentation) and begged me to stop writing Complaints / Grievances on him. I told Defendant Officer Jones to stop sending his co-workers friends at me. Defendant Officer Jones said they were not going to stop even if he said anything. I then replied with "they are retaliating because of you if you don't stop it I will just write a Complaint / Grievance because you know it is retaliation. Defendant Officer Jones replied by saying he will see what he can do. They never stopped.
- 24) Days or weeks later I was transferred to Southport Correctional Facility which I was wrongfully confined in still by Collins April 10th, 2019.
- 25) At Southport Correctional Facility I filed a §1983 to the Western District Court against Defendant Officer Jones and others. I was not knowledgeable in §1983. I then found out that the case was dismissed for reason's unknown. After Southport Correctional Facility in 2019 I was transferred to Hubum, Elmira, Fivepoint Correctional Facility.
- 26) On or about March 3, 2022 I was transferred from Fivepoints Correctional Facility back to Collins Correctional Facility. On arrival Defendant Officer John Det # 1-25 stated "your back this is going to be fun". I was then escorted by Defendant Officer John Det # 1-25 to A12-50 cell.

- 27) On or about April 1, 2022 I was moved from A2-50 Cell to B1-C5 Cell.
- 28) On or about April 2022 Defendant Officer Jones was walking through B1-gallery making his rounds and while I was talking to my Bunkie (some cells are 2 man cells), we both noticed Defendant Officer Jones double back. Defendant Officer Jones looked inside our cell B1-C5 and smiled, before walking away Defendant Officer Jones said "Payback". While Defendant Officer Jones walked away I said that I did not want any problems. While Defendant Officer Jones walked he replied "thats what you said last time I got you now".
- 29) On or about April 2022 Defendant Officer Jones appeared in front of my cell in B1-C5 and told me and my Bunkie to get up for a cell search; we complied. While my Bunkie was getting dressed up he told Defendant Officer Jones "you guys searched my cell already this week". Defendant Officer Jones responded by saying if Santos wasn't your Bunkie we wouldn't be here. The search was conducted without incident and all my Bunkies property and clothes were mixed inside the shower (no the shower wasn't wet), while my Bunkie and I fixed up the cell I explained to him everything that happened 2019 and he said "they trying to piss me off so I could fight you", my Bunkie continued by saying "I don't work for them so you don't have to worry about me", he then forcefully said "you have to be free and call your family and lawyers; and tell them to try and get you transferred because you can see it in their eyes their going to try and kill you bec". When my Bunkie told me this it felt to me as if it came straight from the heart with worry, love and respect.
- 30) On or about April 2022 On the morning tour I spoke to Mental Health letting them know the whole story about the 2019 incident with Defendant Officer Jones and she referred me to speak with CRC.
- 31) On or about April 2022 After speaking with Mental Health, I spoke with Defendant CRC Parker about the situation with Defendant Officer Jones and how I feel my life is not safe. Defendant CRC Parker told me I was not on her workload and that I would have to talk to my CRC to be able to file a (PRA Complaint/Grievance). I found that odd because she was the only CRC that walked that day (again I don't know all the days exactly without the proper documents).
- 32) On or about April 2022 I was given a Misbehavior report for threats I allegedly made while speaking to Mental Health staff Mr. Nelis about fearing for my life, I did not attend the hearing my life costs more than a fake misbehavior report and with god all the evil will come to light.

- 33) On or about April 2022 I spoke with Defendant Grievance Officer Becker in front of my cell B1-C5 about my missing property and why I fear for my life due to the complaints/grievances I filed on Defendant Officer Jones. Defendant Becker informed me to write everything down and send it to him so he can look into the matters. That same day I wrote everything down and sent it to Defendant Becker, I have yet to receive a response.
- 34) On or about April 2022 I spoke to Defendant CRC Fisher in front of my cell B1-C5 about my fear and everything revolving around it, and how I wanted to file a (PRA Complaint/Grievance) and she told me that she was not filing a (PRA Complaint/Grievance) because it was not her job.
- 35) On or about April 2022 I spoke with Defendant Sergeant D. Filighera in front of my cell B1-C5 about filing a Separation on Defendant Officer Jones because I feared for my life. Defendant Sergeant D. Filighera said nothing and walked away.
- 36) On or about April 2022 Defendant Officer Jones appeared in front of my cell door B1-C5 and told my Bunkie and I to get up for a cell search. At this time my Bunkie asked to speak to someone other than Defendant Officer Jones to ask why was the search. After the request was denied we complied with Search #2.
- 37) After Search #2 Defendant CRC Smith which was my CRC came to my cell B1-C5 I then proceeded to explain the situation with Defendant Officer Jones and how I will like to file a (PRA Complaint/Grievance) and how I would like a Separation because I fear for my life. Defendant CRC Smith looked at me and said she did not have the power to file a (PRA Complaint/Grievance) or a Separation Order, and walked away. My Bunkie told me then that I should speak to Defendant CRC Supervisor Nue. The same day I stayed on high alert for Defendant CRC Supervisor Nue (what I mean by high alert is they walk by cells fast and if you don't catch them walking better luck next time). Defendant CRC Supervisor Nue never walked that day.
- 38) On or about April 2022 I spoke with Defendant CRC Supervisor Nue in front of my cell B1-C5 about my fear for my life because of the situation with Defendant Officer Jones and that I would like a Separation. Defendant CRC Supervisor Nue only stated he would look into the matter. Defendant CRC Supervisor Nue never got back to me with an update.

- 39) On Or about April 2022 Defendant Officer Jones appeared in front of my cell B1-C5 and Ordered my Bunkie and I to lock outside of our recreation pin for Search #3. We Complied. My Bunkie spoke to Defendant Officer Jones thru the window while defendant was inside our cell stating that now their retaliating by using excessive searches because Santos is shedding light to the fact that he Filed a (PRA Complaint) 2019 against you and he does not want you around him. Now you trying to make his life hell. Defendant Officer Jones Finished the Search and left.
- 40) On Or about April 2022 I Wrote to Defendant Superintendent Latona, Defendant First Superintendent K. Kelly and Defendant (PRA Deputy) Adams, (TC BE CLEAR I did not know (PRA Deputy Adams) by name or in person that is why most Complaints / Grievances Only states "Collins Corr. Fac. PRA Dep."); About the Fear for my life because of the past and present situations with Defendant Officer Jones. I never received a response.
- 41) On Or about April 2022 Defendant Officer Jones appeared in front of my cell B1-C5 Ordering my Bunkie and I to cut up for a Cell Search #4. At this point it is clear all around the Board that it's become personal for him because not only is this excessive searches and we are not receiving Search Slips after the searches also Defendant Officer Jones is always the first Officer in front of my cell even after I have informed everyone I can about my Complaints / Grievances on Defendant Officer Jones, even after asking for a Separation Order multiple times. So my Bunkie and I refused the cell search for the moment and asked to speak to someone with higher ranks to address the issue. Moments after a Lieutenant arrived in front of my cell B1-C5 to speak to my Bunkie and I. My Bunkie talked to the Lieutenant first and he said that Defendant Officer Jones is retaliating against me because of past and present Complaints which is starting to affect him because his property keeps being mishandled. I then spoke to the Lieutenant explained the whole incident from 2019, I explained what Defendant Officer John Doe #1-25 said the day of my arrival to Collins Correctional Facility and past and present Complaints / Grievances about Defendant Officer Jones while Defendant Officer Jones was present which made the Lieutenant dismiss him from B1-gallery. I also explained to the Lieutenant about how I've been making Complaints / Grievances to everyone I could and nobody doing anything about the fact that I fear for my life and would like a Separation on Defendant Officer Jones. I also explained that my girlfriend and lawyer (Robert "Bob" Walters) has called and emailed the Office of Special Investigation and that they directly called the Facility to making Complaints about Defendant Officer Jones retaliations and to ask that the Facility put a Separation because of Defendant Officer Jones

and his CC-workers/Friends Defendants Officer John Doe #1-25 retaliations. The Lieutenant replied by saying he will look into the matter but that my bunky and I would still need to comply with Search #4 in less than 1 month, we complied!

42) My bunky was set to be released from Departmental Custody within days. So I got a misbehavior report because on Search #3 they noticed that his mattress was ripped and they knowing that they could not hold him accountable, so they wrote me a misbehavior report. I looked at the misbehavior report as a set-up and did not attend the hearing because my life is worth more and my biggest fear was if I came out my cell B1-C5 they could try anything and attack me. Again no one I spoke to or wrote to about my fear of being attacked because of my prior and current complaint of Defendant Officer Jones attempted to investigate or file my complaints/ Grievances of fear of more retaliations and Assault and Sexual Assault.

43) On or about April 28, 2022 at approximately 3:00 pm, Defendant Sergeant D. Filighera arrived in front of my cell B1-C5 with (2) Defendants Officer John Doe to conduct the 5th cell search in less than 1 month, reasons for the search was not given which shows excessive searches as a format of retaliation for his CC-worker/ Friend Defendant Officer Jones. Me knowing it's retaliation still complied with the cell search at B1-C5 by allowing to be placed in handcuffs behind my back. While cuffed behind my back the cell door opened and I took a step backwards onto B1-gallery to show the camera that I came outside my cell following procedure. I and then ordered to turn around and faced the wall on B1-gallery to be pat-frisked which I complied. After I was pat-frisked I was then wanded with a handheld metal detector and so happened that the handcuffs was making it go off but Defendant Sergeant D. Filighera came to get payback for CC-worker/ Friend Defendant Officer Jones that he refused to listen to Defendants Officer John Doe which stated that it was the handcuffs making the hand held metal detector go off. Still on B1-gallery I became indistress because I knowingly understood that Defendant Sergeant D. Filighera was there for retaliation purposes, so I then ask Defendant D. Filighera for mental health assistance while still on B1-gallery and still handcuffed behind my back, I also stopped talking after I asked for mental health assistance (this is on camera & audio). As a mental health patient I have a Constitutional Right to ask for mental health assistance due to my mental conditions; due to Defendant D. Filighera's mission my mental health was not a priority for him and instead called more Defendants Officer John Doe #1-25 to B1-gallery and gave an order for them to drop me on the floor. The camera & audio will show me on B1-gallery handcuffed to my back asked for mental health assistance multiple times and remained humble and then remained silent awaiting for mental health to

Arrive. Instead the Order Defendant D. Filighera gave to Defendants Officer John Det #1-25 is proof of him acting under color because Defendants Officer John Det #1-25 then grabbed me by my hair and neck by putting me in a headlock on camera. Audio and while I was already handcuffed to my back being humiliated and I was slammed to the floor or (RKO'd) to the floor. I was kicked in my body and head, my temple hit the floor hard while defendant Officer John Det #1-25 forced his knee down on the back of my neck as was done to "George Floyd" & Tyre **Nichols**. I screamed "I'm not resisting", while all this happened, I was legcuffed in the middle of this attack and my wrist was twisted. I was then carried from B1-Gallery to the 1st Floor Bull pin and thrown on the floor (B1-gallery is in the 1st floor but it is a gallery, the Bull pin is outside the gallery in the 1st floor). I then stood up with my blood pumping on defence made asked for mental health assistance again and asked for medical attention because I felt a knot growing on my left temple and I felt as if my wrist was broken. Defendant Sergeant D. Filighera then came to the Bull pin and asked me if I was going to comply with a strip frisk. I then told him I complied with the cell search by coming out the cell and you had your minion's jump me while I was in restraints and one of your minion put his knee on top of my neck and checked me that is illegal you saw what happened to "George Floyd". I proceeded to say that he wants to jump on me while I was fully naked. I then asked to speak to mental health and I needed medical attention I'll be damned if I give you the satisfaction to jump me naked. I then said "Ick" (pointing at the knot on my temple).

44) On or about April 28, 2022 at approximately 3:30 pm Defendant Nurse Solomon arrived in front of the 1st Floor Bull pin where I was still inside and asked me if I was OK. I responded by saying "Miss I'm not OK I was just assaulted while my hands was cuffed behind my back I need medical attention but before I receive medical care I would like my patient Bill of Rights so I can know the Rules, Regulation and procedure and Law. Defendant Nurse Solomon said she will be back with the patient Bill of Rights. Approximately 30 minutes later the Defendant Nurse Solomon returned and asked if I was OK. I responded by saying "I have a knot on my left temple, my wrist might be broken I have scrapes and bruises from head to toe, my back is in pain and I feel dizzy but pictures has not been taken, and papers has to include all my injuries so I need my Patient Bill of Rights to understand the process and by law if I walk into a hospital and ask for my patient Bill of Rights I am going to be afforded it, Can you please bring me the patient Bill of Rights so I can understand what medical care I am entitled to. Defendant Sergeant D. Filighera was standing next to defendant Nurse Solomon both times she came to ask me if I was OK.

I then proceeded to let Defendant Nurse Solomon understand that if I didn't understand my rights you guys are going to want to do whatever you want and not follow Rules Regulations, Procedure and Law. Defendant Nurse Solomon then said she could just verbally tell me my rights I then said Miss Joyce know the patient Bill of Rights word for word? Defendant Nurse Solomon did not respond. I then said Miss please I need medical attention I'm in pain can I get the patient Bill of Rights as well. Defendant Nurse Solomon then looked up at Defendant Sergeant D. Filighera and Defendant Sergeant D. Filighera then told Defendant Nurse Solomon "Forcefully" "Don't give him the patient Bill of Rights. They then both walked away.

45) On or about April 28, 2022 at approximately 4:30 pm Defendant Lieutenant John Dee arrived in front of the 1st floor bull pin where I was still inside and asked Defendant Sergeant D. Filighera what happened, and they briefly spoke. Defendant Lieutenant John Dee then looked at me and asked what happened, I then told him that I was assaulted on camera by Defendant's D. Filighera's minions (Defendant Officer John Dee #1-25) while I was in restraints; I told him I was checked and have not received medical attention, I also stated that I asked to speak with mental health and they have not come to talk to me. I then told Defendant Lieutenant John Dee that I did not know the procedure to a cell search but 5 searches in less than a month is illegal especially for no reason and that I will also like to speak to the chaplain. Defendant Lieutenant John Dee then walked away. Defendant Lieutenant then came back to the 1st floor bull pin where I was still in approximately 10 to 20 minutes later. I told Defendant Lieutenant John Dee that I have not received mental health assistance, I have not received medical assistance and I don't see the chaplain anywhere you guys are corrupt as fuck. Defendant Lieutenant John Dee then asked why I was screaming I replied by saying I am not screaming I am talking loud because the bull pin does not have a microphone it's just wires and I want to make sure that the microphone over there by the Sallyport can hear everything. Defendant Lieutenant John Dee walked away for the 2nd time. (Both times Defendant Lieutenant John Dee walked away from my view). Defendant Lieutenant John Dee came back to the 1st floor bull pin where I was held for the 3rd time with Defendant Officer John Dee #1-25 dressed in black and gas masks. (again I wasn't in a state of mind to worry about counting the Officer John Dee #1-25 when my life is on the line this is why I say "Defendant Officer John Dee #1-25 because the video's and audio's will eventually identify exactly who is who). I then turned my back against the bull pin door and put my hands in the air "Screaming" very scared that I was not resisting over and over again. I was then sprayed from the back on the back of my neck and cheeks 4 or 5 times with Bear spray on camera & audio inside 1st floor Sallyport and

other angles). While I still maintained my position with my back cladding the Bull pin Door with my hands in the air, to be clear the Bull pin Door opens outward not inward which mean I was not blocking it from opening. My human instinct was to look back and Defendant Officer John Doe with the shield hit me in the back with the shield that forced me to fly a few feet off the floor and slammed onto the floor because I still had legcuffs on that were so tight it was cutting my blood circulation's off. While on the floor Defendant Officer John Doe ripped to me on the floor kicked me, punched me, and choked me with their knee on my neck until they knocked me out unconscious. When I gained some consciousness I was placed on my stomach pinned down with my hands lifted to the back. All I felt was defendant's Officer John Doe #1-25 ripping my clothes off while one pinned me down with their knees in each arm and one pinned me down with their knees in each leg while one stomped on my ankles. I also felt someone rip my religious beads around my neck. I then heard Defendant Lieutenant John Doe Order Defendant Officer John Doe #1-25 to spread my butt cheeks while I was completely naked and Defendant Officer John Doe #1-25 rammed his finger inside my asshole while being pinned down. I was then carried to B2-48 cell in Contraband Watch as a way to punish me and cover up these ends.

46) On or about April 28, 2022 at approximately 5:30 pm I had the person in the cell next to me B2-49 call my girlfriend to explain to her that their trying to kill me and that I have not received medical attention and that at that moment I felt suicidal and that no one wants to take pictures of my body because the injuries would only look bad on their end. My girlfriend then told the person I had call that she is going to call my lawyer "Robert 'Bob' Walters", and let him know what happened and also that she will call the #1-25 of special investigation until I get the medical attention and mental health assistance I need, and she will push for my injuries to be documented and taken pictures of.

47) On or about April 28, 2022 at approximately 6:00 pm inside B2-48 cell I told the Contraband Watch ~~watchman~~ officer that I was suicidal and need to speak to mental health but he responded by saying Defendant D. Filighera already knew.

48) On or about April 28, 2022 at approximately 6:30 pm inside B2-48 cell still on Contraband Watch I was laying in the cell floor because I was naked with no mattress no nothing and the cell is all metal and my body was in pain. While on the floor I heard Defendant Sergeant D. Filighera call on the radio to open B2-48 cell door; when, the door

Opened, I stood up and Defendant Sergeant D. Filigiera Order Defendant Officer John Doe #1-25 to assault me. This was the 3rd Assault that day when the 1st Defendant Officer John Doe #1-25 with the shield ran inside B2-48 Cell which I was in. I tried to run to the back of the cell which was not fair and I was then slammed to the floor and instantly I started screaming, crying for help while Defendants Officer John Doe #1-25 punch me all over my body, they kicked and stomped me everywhere they then after my hands up to my back and continued to punch and kick and stamp on me everywhere. Defendants Officer John Doe #1-25 rammed his finger inside my ass hole for the 2nd time and continued to assault me for a few more minutes, they then carried me out the cell B2-48 completely naked to the 1st floor Bull pin. (TC Note I never stop screaming from the moment they came inside the cell to the moment I was thrown in the 1st floor Bull pin). I was then escorted back to B2-48 Cell from the 1st floor Bull pin with Officers from Shift Change.

- 49) On or about April 29, 2022 at the morning tour Defendant Sergeant Hessel came to see the Contraband watch logbook while I was in B2-48 Cell. I then asked Defendant Hessel for medical attention, Defendant Hessel's response was "you can fucking do don't ask me for anything"; and then he walked away out of B2-gallery.
- 50) On or about May 2022, On evening tour I was pulled out my cell B2-48 by Defendant Sergeant Hessel to the 1st floor Bull pin. while in the Bull pin Defendant Sergeant Hessel pouted and used profanity because my girl friend my lawyer pushed the Office of Special Investigation to push Collins Correctional Facility Administration to push Defendants to give me medical attention and take pictures of my injuries that include but are not limited to "Knicks on my head, Black eye, Scrapes, Bruises, Swelling on my feet, legs, hands, arms, face, and back and Neck pain. (TC Note Defendant Sergeant Hessel was telling his Co-workers/Friends what on the above, on camera & Audio).
- 51) On or about May 2022, On morning tour I was taken out of my cell B2-48 to the Doctor's office to be assessed. The doctor documented my injuries but did not do a rape kit because he said to many days has passed, but he did ~~check~~ check my whole body. again I took my girl friend and lawyer to call and complain for me to receive medical attention.

- 52) On or about May 2022 On Morning tour I made a PRA Complaint in front of my cell B2-48 about the assaults and Rapes to Mental Health Staff Ms. Nelis and Medical Nurse Ms. Grecco also to Defendant CRC Parker and Defendant CRC Fisher and Defendant Superintendent Latcha and Defendant First Deputy Superintendent K. Kelly, which all told me they will put in the (PRA Complaint). All But Mental Health Staff Nelis and Medical Nurse Ms. Grecco denied to put said (PRA Complaint).
- 53) On or about May 2022 On Morning tour I was pulled out of my cell B2-48 to speak to (CSI) Office of Special Investigation Ms. Hensley, I was taken to A2-gallery and legcuffed to a table on the gallery. CSI Ms. Hensley introduced herself as the person investigating my Rapes allegation. And told me that someone else will be investigating the assault parts. (this from the beginning was odd to me because the attacks and Rapes happened in the same incident), before she said anything else, I said that I have filed multiple (PRA Complaints) on Defendant Officer Jones in the past and present (meaning 2019 and 2022) I was transferred back to Collins and him and his co-workers/ friends are making my life miserable. I then proceeded to say they did not want to give me medical attention or even take pictures of my injuries. CSI Ms. Hensley then cycled while looking at paper ~~in a folder~~ in a folder "here it says you received medical attention on (I don't remember the exact date she stated so I will leave it blank until I receive the proper documentation) and she continued to say this is the pictures they took, I responded by saying I received medical attention and pictures were taken of my injuries days after the incident days after they assaulted and raped me. They were hoping that my injuries would go away so they can cover it up, if it was not for my girlfriend and lawyer calling non-stop filing complaints they would have left me to die, they tried to kill me! CSI Ms. Hensley then asked me if I wanted to add anything else, I then replied by saying everything that happened April 28, 2022; the Assaults, and the Rapes was all on camera & audio. CSI Ms. Hensley then proceeded to say keep your head down while I do my investigation and let your girlfriend and lawyer know they can stop calling as I can be able to investigate. I then asked CSI Ms. Hensley for a Separation Order from all my classes and she responded by saying I'll talk to my boss and get back to you and remember keep your head down. (to note CSI Hensley did not get back to me; it is not clear what investigation she did if any at all).

- 54) On or about the whole month of June 2022 I kept my head down while calling and writing lawyer's to see if they wanted to take my case, but I had no success because most said that the pandemic has them with more work than expected.
- 55) On or about July-August 2022, (Again with the proper documents I will be able to add exact dates); I started feeling as if my life was not safe because Defendant Officer Jones started to appear in front of my cell door B2-48 and using facial gesture like winking his eyes at me and passing me my head and saying sarcastic remarks like "Enjoy", which put me in a state of mind to go on a hunger strike for (14 days) until someone puts a Separation Order or a Transfer from all my abuser's.
- 56) On or about July-August 2022 I broke my hunger strike because it was not achieving my goal for Separation.
- 57) On or about August 2022 I became feeling suicidal, I was put on Suicide Watch in Collins PRU 2nd Floor Bullpen for the weekend and also Contraband Watch and that Monday afternoon I was transferred to Attica Correctional Facility for a (10 days at Count) for mental health purposes. While in Attica Correctional Facility I was placed in (OBS - OBSERVATION) Unit (I do not remember what cell I was placed in but I think it was cell #1). The next morning which I believe was Tuesday I was pulled out the cell to speak to Attica Correctional Facility Mental Health Staff Ms. Knight. Mental Health Staff Ms. Knight asked if I was still feeling suicidal, I then stated "Yes". She then asked me why, so I explained to her everything about the (PRA Complaints) I filed, I continued to tell her no one in Collins Correctional Facility wants to help me; I feel helpless. I continued to state that I am being harassed by the same people that assaulted me (3) times and raped (2) times and no one seems to care. Mental Health Staff Ms. Knight did not care because she had me discharged without notice. I was to be transferred back to Collins Correctional Facility, I refused to go back. The next morning I was denied breakfast and lunch by an officer who told me that if I see Defendant Sergeant Hessel for me to let him know that "Red" sends his regards. The same day I was denied feed up I was transferred back to Collins without incident and placed inside B2-48 cell. Once back at Collins Correctional Facility I immediately started writing complaints about the incident to Defendant Superintendent Latona and Defendant (PRA Deputy Adams) about what the Officer's statement in Attica Correctional Facility and about my fear for my safety and asking for a separation against all my abuser's. At the time I started to believe they was going to kill me so I made a choice

not to wait for a lawyer's response and I wrote to the Western District Court for a \$1983 complaint, I then filed said complaint just in case I was murdered proof would be out there.

58) After I received the court response on or about August 2022 I was inside my cell B2-48 and Defendant Officer Jones was picking up the razors and he looked at me and chuckled and I stated why don't you just leave me alone, Defendant Officer Jones continued to collect razors and then while in front of B2-50 cell he told the incarcerated individual inside that cell which was the Porter (Porter is the person that cleans) "Santos wants me to leave him alone like if I care about his grievances. That same day I wrote Defendant Superintendent Letcher and Defendant Deputy Adams and made a complaint for retaliation and verbal harassment. Days later Defendant Officer Jones arrived to my cell B2-48 and stated I arrived at work today and I was given a copy of your complaint and at first I did not think you wrote it but then who did? I can tell you, you know how to write and if I did anything I would like to say sorry. I responded by saying it's too late for an apology all I want is to be left alone. Everyone of your co-workers/friends are fucking with me because of you, because of you I am being tormented like if I was in Guantanamo Bay Prison. He then stated that he has no control what his co-workers/friends do, I responded by saying so their fucking with me for no reason? He stated "what ever they do they do alone not because of me they do it because it's them, not everyone is bad like some". He then went on trying to talk me out of writing more complaints on him and my chance was there at that moment and I responded and said you guys violated my Constitutional Right from everything you guys are putting me through leave me alone. Defendant Officer Jones then stated other things and walked away from my cell B2-48.

59) On or about August 2022 I was picked up at my cell B2-48 to be escorted to the 2nd floor Classroom by Defendant Officer John Doe #1-25 and Defendant Officer John Doe #1-25 stated "what's going on with you and Jonesy", I then responded by saying you all do not understand that I want you'll to leave me alone, I continued to say all of you don't understand what you're all doing is violating Rules, Regulations and procedures most importantly my Constitutional Rights; I will see all of you in court! Defendant Officer John Doe #1-25 replied by saying "that court shit don't affect us it won't matter you won't win. That same day while inside my cell B2-48 I wrote a complaint about what Defendant John Doe #1-25 said to Defendant Superintendent Letcher and Defendant Grievance Officer Becker.

- (60) On or about August 2022 in the afternoon tour I was taken from my cell B2-48 to the 2nd floor classroom to speak to the (PMT TEAM), present in the room was Defendant Sergeant D. Filighera, Defendant CRC Smith, Defendant CRC Parker and mental health staff Ms. Jones and Ms. Nelis; while in the classroom I was verbally abused by Defendant CRC Smith and Defendant CRC Parker because of different types of views and opinion and made Defendant Sergeant D. Filighera join them with the verbal abuse. When I was taken back to my cell B2-48 from the 2nd floor classroom and I wrote a complaint/grievance for verbal abuse and retaliation on defendants to Defendant Superintendent Latcha; the complaint was being investigated by Defendant K. Kelly, who had me pulled out the cell B2-48 to the hearing room in the 1st floor to ask me questions about the complaint which I stated everything on camera & audio and I then was sent back to my cell B2-48; (I never received an update of the investigation).
- (61) On or about September 2022 Defendant Nurse Solomon stopped by my cell door B2-48 to give me my medication in the morning and saw me using a law library tablet, while in front of my cell she stated "are you suppose to have that because I don't see nobody else with one but you", (I want to mention that behind her is Defendant Officer John Doe #1-25 picking up breakfast trays), I continued by taking my medication and saying "they give them out at 6:00 am sometimes". Defendant Nurse Solomon then told Defendant Officer John Doe #1-25 ICK Santos has a tablet and walked out of B2-gallery. Defendant Officer John Doe #1-25 tells the person inside B2-49 cell that Defendant Nurse Solomon wanted him to search my cell and that she wants to be police. (again this whole incident is on camera & audio), I then wrote Defendant Superintendent Latcha and Defendant Grievance Officer Becker a complaint/grievance for retaliation. Days after medical staff Ms. Grecco came to my cell B2-48 in the morning stating that her boss asked her to come talk to me about the complaint I filed on Defendant Nurse Solomon and I responded by saying "your boss sent you now unprofessional tell your boss to check the camera and audio and they will see for themselves." I then wrote a complaint/grievance to Defendant Superintendent Latcha and Defendant Becker about the incident and how she said her boss asked her to come talk to me about a complaint/grievance filed against her co-worker/friend.
- (62) On or about September 2022 Defendant Sergeant D. Filighera came to escort me from my cell B2-48 to the 2nd floor classroom but while in front of my cell door he pointed at a blood stain on his white shirt as an intimidation tactic because of all the past and present complaint/grievances I filed on him and Defendant Officer Jones and all his co-workers/friends. Once

back in my cell B2-48 I wrote a Complaint/Grievance and sent it to Defendant Superintendent Latona, Defendant PREA Deputy Adams, Defendant Grievance Officer Becker about said incident. I have not heard anything yet.

- (63) On or about September 2022 in front of my cell B2-48 on morning hour I was speaking with Defendant Superintendent Latona to see if she has been receiving my Complaints/Grievances, her answer was "now can I miss them you file (9) a day"; she then continued and said they will be investigated and after the investigation you will get a response. Defendant Superintendent Latona then started speaking to the person in the cell next to me B2-49 and Defendant Sergeant D. Filighera then looks inside my cell B2-48 and makes kissing faces at me so I call Defendant Superintendent Latona which is in front of B2-49 cell (she is within my view), and let her know he's making kissing faces at me she tells me to stop interrupting her please and also told me to ignore Defendant Sergeant D. Filighera and then Defendant Superintendent Latona walked out of B2-gallery.
- (64) On or about October 2022 Defendant Sergeant D. Filighera was making his program rounds at B2-gallery when he stopped in front of my cell B2-48 and made kissing faces again and moved on passed my cell leaving me my rights to programming, that same day I wrote a Complaint and sent it to Defendant Superintendent Latona and Defendant Grievance Officer Becker, I have not been replied to.
- (65) On or about October 2022 Defendant Sergeant D. Filighera was making his program rounds at B2-gallery when he stopped in front of my cell B2-48 and told Defendant Officer John Doe # 1-25 to "watch out or I will write them up and sarcastically said "for gang assaults and rapes"! when I returned back to my cell B2-48 I wrote a Complaint/Grievance about the incident to Defendant Superintendent Latona and Grievance Officer Becker. (to note that most of my Complaints/Grievances was extensions for the April 28, 2022 assaults and rapes which I call gang assaults and rapes so if Defendant Sergeant D. Filighera clearly referenced Filed Complaints/Grievances it's a form of retaliation). Defendants never responded to my Complaints/Grievances.
- (66) On or about October 2022 I received a misbehavior report for refusing double celling at B2-48 cell which was not true. When the time came for me to defend myself with the fake charges, I asked for the videos at the hearing and while watching the video the hearing officer concluded that the

video shows that the alleged written Misbehavior report "Did not happen," and the charges were dismissed. (TC Note that the Misbehavior report was written by Defendant Sergeant D. Filighera). After the hearing, I wrote a Complaint / Grievance to Defendant Superintendent Latona, Defendant Grievance Officer Becker and Defendant PREA Deputy Adams; to show the Proof of retaliation and misuse of power from Defendant Sergeant D. Filighera towards me and I never received a response.

- (67) On or about October 2022 I Filed a Complaint / Grievance to Defendant Superintendent Latona and Defendant PREA Deputy Adams and Defendant Grievance Officer Becker about my food and mail being tampered with. I also spoke about this Complaint to my PREA Counselor from the "Crisis Services (Angela T.) On a legal phone call and (Angela T.) directly Filed a Complaint about the matter to Defendant PREA Deputy Adams.
- (68) On or about October 2022 I Filed numerous Complaints / Grievances to Defendant Superintendent Latona, Defendant Grievance Officer Becker; on the matter that I was denied law library Research on Multiple days as retaliations for Filing past and present Complaints / Grievances.
- (69) I will like to Note that in order for me to add exact dates and times on some incidents I will need to be afforded the proper documentation because at Mid-State Correctional Facility I was not given my property due to the way this program runs and everyone of these incidents are on Camera & Audio.

Exhaustion of Administrative remedies :

- (70) The plaintiff has exhausted his administrative remedies with respect to all the claims and all defendants.

Claim For relief :

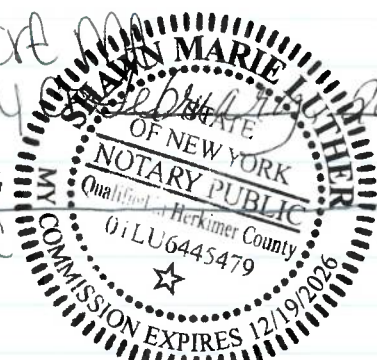
- (71) The action of defendants Officer Jones, Defendant Sergeant D. Filighera, Lieutenant John Doe, Defendant's Officer John Doe # 1-25 in using physical force against the plaintiff without need or provocation, or in failing to intervene to prevent the misuse of force, were maliciously and sadistically and constituted Cruel and Unusual Punishment in violation of the Eighth Amendment of the United States Constitution.

- 72) The action of defendant's Officer Jones, Defendant Lieutenant John Doe, Defendant Sergeant D. Filighera and Defendant Officer John Doe #1-25 is Using physical force against the plaintiff without need or provocation, or in failing to intervene to prevent the misuse of force constituted the tort of assault and battery and rapes under the law of New York State.
- 73) The Failure of Defendant Superintendent Latona, Defendant First Deputy Superintendent K. Kelly, Defendant CRC Parker, Defendant CRC Smith, Defendant CRC Fisher, Defendant CRC Supervisor Nue, Defendant Collins, Corr. Fac. (PREA Deputy) Adams, Defendant Grievance Officer Becker to take disciplinary or other action to curb the known pattern of physical abuse of incarcerated individuals by defendant Officer Jones, Defendant Officer John Doe #1-25, Defendant Lieutenant John Doe, Defendant Sergeant D. Filighera constituted deliberate indifference to the plaintiff's and other incarcerated individual's safety, and contributed to and proximately caused the above-described violation of eighth amendment rights and assaults and battery's.
- 74) The Failure of defendant Nurse Solomon, Defendant Sergeant Hessel to approve the provided or to provide the medical assistance after known injuries constitutes deliberate indifference to the plaintiff's serious medical needs in violation of the eighth amendment to the United States Constitution.
- 75) The Failure of defendant Nurse Solomon to provide medical care constitutes the tort of negligence under the law of New York State.

Wherefore, Plaintiff request that the Court grant the relief of \$38,000,000 each defendant which is a total to \$1,444,000,000 and grant such other relief as the Court may appear that plaintiff is entitled.

Sworn to before me
this 9 day of February 2023

[Signature]
(Notary public)



Respectfully Submitted,
NAME: Byron Santos
DIN#: 17A4130
Signature: *[Signature]*
Date: February 9, 2023
Address: Mid-State Correctional Facility
P.O. Box 2500
Marcy, New York 13403

TO: Western District Court Clerk
FROM: Byron Santos #17A413C
Date: February 9, 2023
Subject: Amended Complaint Enclosed as Requested for 22-CV-6338; (Pg Are From 1-19)

I am writing this missive today to inform the Court that Enclosed is an Original Copy of the requested Amended Complaint by Hon. Elizabeth A. Wolford. I will also like to add that due to the lack of funds and materials I am not able to make copies of the Amended Complaint; I also understand that (cccc) Facilities uses mails purposefully, so I am asking the Court for a copy of the Amended Complaint which is the only Original and I am asking for the Court to assure me in writing that the Amended Complaint was received.

Again, I am being cautious because here at Mid-State Correctional Facility I have been receiving my legal mail from the Western District Court 6 days after it was received at the facility.

I will like for Hon. Elizabeth A. Wolford to know with the proper Documentation I will be able to add exact names and date's to some or all incidents. Also I will be calling or subpoenaing witnesses which their testimonies will be detrimental to the case without. I also will be needing an attorney because I only know the basics of §1983.

Thank you for your time and patience!

Sincerely,
Byron Santos
#17A413C
February 9, 2023

CC: B/R
FILE
(Western District Court Clerk)

Mid-State Corr. Fac.
P.O. Box 2500
Maray, N.Y. 13403

Byron Santos #17A4130
Mid-State Correctional Facility
P.O. Box 2500
Marion, New York 13403



Clark, U.S. District Court
United States Courthouse
Rochester, New York 14614-1387



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